

Office of

Personnel Management

Washington, D.C. 20415

STAT

In Reply, Refer To:

Your Reference:

Honorable Robert J. Dole
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We understand that your Committee is now considering S. 888, entitled the "Economic Equity Act." Since the Office of Personnel Management would have to administer significant portions of this bill, I hope you will include the following comments in your consideration of this legislation.

Section 109 of S. 888 would automatically entitle a former spouse (defined as one who had been married to a Federal employee for at least ten years during the employee's Government service) to a pro rata share of half of the employee's Civil Service Retirement annuity, unless a court order or spousal agreement provides otherwise. The pro rata share would equal the ratio of (1) the number of years of Federal service during which the former spouse and the employee were married to (2) the total number of years of the employee's Federal service. The former spouse's right to this annuity would terminate if the former spouse remarried before age 60. The retired employee's annuity would be reduced by the annuity paid to the former spouse, but this reduction would be disregarded in calculating any survivor annuity. If a disability annuitant became reemployed by the Government, payment of annuity to his or her former spouse would continue, but the employee's pay would be reduced by the amount of the former spouse's annuity, and the employing agency would reimburse the Retirement Fund for the cost of the payments to the former spouse.

Under section 109, the former spouse would also be entitled to the same share of the survivor annuity that is payable based on the employee's Federal service, unless otherwise provided by a court order or spousal agreement. Any part of the survivor annuity not paid to a former spouse would be available for a surviving spouse, but the sum of the survivor annuities could not exceed 55 percent of the retiree's annuity. The right to a survivor annuity would terminate upon remarriage before age 60 but would be reinstated if the remarriage later ended. The retiree's annuity would be reduced to provide the survivor annuity. This reduction would be eliminated if the former spouse's right to a survivor annuity terminated because of death or remarriage. However, the retiree could elect to continue the reduction in order to increase the amount of the survivor annuity available to a subsequent spouse. There is no provision

for increasing or commencing payment of a survivor annuity to the retiree's surviving spouse if a former spouse's survivor annuity is terminated after the retiree's death.

A retiring employee who is married and/or has a former spouse would automatically have his or her annuity reduced to provide a survivor annuity for the spouse and/or former spouse. The survivor annuity could be waived or reduced by a joint election of the employee and the spouse or former spouse. The employee could make such an election if he or she could establish to OPM's satisfaction that the whereabouts of the former spouse could not be determined. OPM would be required, "to the maximum extent practicable," to inform spouses and former spouses of their rights to Civil Service Retirement benefits.

If a retiree has a former spouse who is entitled to a survivor annuity, the retiree could elect to provide an additional survivor annuity for his or her current spouse and/or any other former spouse. The total amount of additional annuities with respect to one retiree could not exceed 55 percent of the retiree's annuity. The retiree would have to pay for the entire actuarial value of the additional annuity, and could elect to provide such an annuity only if in good health. No cost-of-living adjustments would apply to additional survivor annuities unless authorized by OPM regulations. Section 8345(f) of title 5, United States Code, which establishes a floor on Civil Service annuities, would not apply to additional survivor annuities.

Section 109 of the bill would also entitle a former spouse to a pro rata share of half of an employee's lump-sum retirement credit in case the employee separates from the service and takes a refund of his or her retirement contributions, or the unexpended balance to the employee's or annuitant's credit in the Fund in case he or she dies. The credit would be reduced by the amount of any annuity that has been paid to the former spouse.

The provisions of section 109 would take effect 120 days after enactment and, with certain exceptions, would apply in cases where divorce, annulment, or legal separation occurred after the effective date. In cases where the marriage dissolved before the effective date, a survivor annuity would be provided to the former spouse only if a court order or spousal agreement so provides. Court orders and spousal agreements could be made at any time before retirement, in the case of current employees, and within whatever period after the effective date that OPM prescribes, in the case of current retirees. If the employee or former employee is married on the effective date and has been married for more than one year, his or her current spouse would have to concur in an election to provide a survivor annuity for a former spouse. Current employees would have their annuities reduced to provide the former spouse's survivor annuity, beginning on the commencing date of their annuity, while the reduction in the annuities of current retirees would begin on the effective date of section 109. Finally, section 109 would provide a survivor annuity to the former spouse of a retiree who died before the effective date, if the retiree was married to the former spouse at the time of retirement, failed

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to elect not to provide a survivor annuity, subsequently became divorced, and did not leave a surviving spouse who was entitled to a Civil Service survivor annuity.

The Office of Personnel Management opposes enactment of section 109 of S. 888. Current law (5 U.S.C. 8345(j)) already enables OPM to recognize State court orders awarding some or all of an employee's annuity to a former spouse, and we believe this is an adequate protection of the rights of former spouses, since it recognizes the primary responsibility of State courts to determine, on a case-by-case basis, a former spouse's entitlement to a portion of the employee's retirement benefits. Creating a statutory assumption of automatic entitlement by the former spouse regardless of the circumstances of a particular case, as section 109 of S. 888 would do, is only likely to foster new inequities.

Section 109 resembles provisions of the Foreign Service Act of 1980 and the Intelligence Authorization Act for Fiscal Year 1983, providing benefits for former spouses of Foreign Service officers and CIA employees serving overseas, respectively. The Congressional consideration of the relevant portions of these two statutes focused in large part on the effects on a former spouse that follow from the unique nature of employment in the Foreign Service and overseas employment with the CIA--residence in foreign countries, frequent relocations, the spouse's involvement with the employee's duties, and the consequent likelihood that a spouse is unable to pursue his or her own career and establish separate retirement benefits. These conditions do not characterize the careers of most employees covered under the Civil Service Retirement System.

Although section 109 of this bill is designed to benefit former spouses who were completely financially dependent on their Federally-employed spouses throughout long-term marriages, it would also impose an unreasonable and inequitable burden on many employees in lower-income Government jobs whose former spouses' incomes are substantially higher than their own. The authors of S. 888 implicitly recognize this potential inequity by providing that the automatic provision of benefits to a divorced spouse may be superseded by a court order or spousal agreement. We agree that variables must be considered in individual cases, such as the financial status of both parties, property settlements, children involved, and the reasons for the divorce. Thus, we do not see a reason to abandon the present law, which simply provides for disposition of Civil Service Retirement benefits by State courts on a case-by-case basis.

We also note that significant new costs would be incurred by the Retirement System as a result of this bill. The reduction in the employee's annuity to provide for a survivor annuity ($2\frac{1}{2}$ percent of the first \$3600, plus 10 percent of the remainder) falls far short of the true cost of the survivor annuity. We estimate that the annuity reduction pays only 29 percent of the cost of a widow's survivor benefit and 76 percent of a widower's benefit. Because S. 888 would require survivor annuities to be paid in many cases where none would be paid under current law (either because the employee never remarried after being divorced or elected not to provide a

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survivor annuity for his or her spouse at the time of retirement), it would increase the cost to the Retirement System of providing survivor benefits. The problem of cost is also exacerbated by the bill's retroactive provisions. Section 109(e) would provide survivor annuities to former spouses of employees who have been retired or dead for several years. In cases where the retiree died before the effective date of section 109, the reduction in the retiree's annuity presumably would have been eliminated at the time of divorce, further increasing the cost to the Government of providing the annuity. Finally, the administrative costs of apportioning annuities and survivor annuities, as well as of informing potential former spouses of their annuity rights, would also be significant.

Section 109(b)(2) of S. 888 concerns service credit under 5 U.S.C. 8332(k) and 8334(d). The former requires that employees on leave-without-pay while serving full-time with an employee organization must make retirement contributions for such periods after July 17, 1966, in order to receive credit for those periods. For such periods before July 18, 1966, only up to 6 months in a calendar year may be credited if the employee fails to make a deposit. Section 8334(d) requires an employee who has received a refund of Civil Service Retirement contributions to redeposit the refund, with interest, in order to receive credit for the period of service covered by the refund. Under section 109(b)(2) of S. 888, these periods could be used in computing annuities for former spouses, even if they were not covered by retirement contributions of the employee. This provision is unreasonable and inequitable, since it would allow a former spouse to receive credit for periods for which neither the employee nor the employee's surviving spouse could receive credit. Accordingly, this provision could enable the former spouse to receive more than a pro rate share of the employee's annuity and the survivor annuity.

Finally, it should be noted that the provision concerning additional survivor annuities is impractical and unrealistic. The employee would have to pay the full actuarial value of such an annuity, which would be prohibitively expensive in most cases. The employee's annuity would already have been reduced by 2 1/2 percent of the first \$3600 and 10 percent of the remainder in order to provide the basic survivor annuity. Moreover, it is likely that the employee's annuity will have been apportioned between the employee and the former spouse. From this already reduced annuity, yet a further reduction would be required to provide the second spouse with an additional survivor annuity, and even where the employee and second spouse are the same age, this reduction would have to be approximately 20 percent of the employee's unreduced annuity. Thus, few employees would be willing or financially able to provide an additional benefit for the second spouse.

In addition to these substantive objections to section 109, we would like to point out the following technical deficiencies in these provisions:

- (1) The use of a capital letter in denoting a section ("8341A") is inconsistent with the style used throughout title 5, U.S. Code. "8341a" should be used instead.

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- (2) The definition of "court" should stipulate whether or not territorial courts are included.
- (3) Proposed section 8341A(c)(3)(A)(i) provides that an employee or Member could provide an additional survivor annuity through a salary allotment. This is inconsistent with section 8341A(c)(1), which enables only an "employee or Member providing a survivor annuity benefit under subsection (b) for a former spouse" to provide an additional survivor annuity. This means that only a retired employee whose annuity is being reduced to provide a survivor annuity for a former spouse could make payments or have his or her annuity further reduced to provide an additional survivor annuity. Accordingly this would preclude an individual from providing an additional survivor annuity through salary allotments.
- (4) Proposed section 8341A(c)(3)(C), should be amended by inserting "or spouse" after "If a former spouse". This change is needed in order to reflect that an additional survivor annuity may be provided either for a former spouse or a current spouse. Similarly, in section 8341A(c)(4), "spouse's or" should be inserted before "former spouse's death".
- (5) Proposed section 8341A(c)(3)(C) provides that if a former spouse predeceases the employee or remarries before age 60, the annuity reduction or salary allotment by which the employee is providing for an additional survivor annuity will be terminated and whatever contributions the employee has made for this purpose will be refunded, but only to the extent that the employee's contributions have exceeded the actuarial cost of providing additional survivor benefits for the period such benefits were provided. The latter clause is confusing. There is no actuarial cost of providing an additional survivor annuity unless such an annuity is actually paid. If such an annuity has been paid, the retiree must be deceased, so it is unclear to whom his or her contributions would be refunded. In any event this kind of payment should never be refunded, since it, in essence, amounts to a purchase of life insurance.
- (6) Section 109(b)(3)(B) would amend 5 U.S.C. 8341(d), relating to annuities for surviving spouses of employees who die in service, to provide that a surviving former spouse shall be entitled to an annuity under 5 U.S.C. 8341A(b), as if the employee died after becoming entitled to an annuity. Although this provision appears intended to provide survivor annuities to former spouses of employees and Members who die in service, it does not actually so stipulate. Moreover, the placement of this provision in 5 U.S.C. 8341(d) is inappropriate, since it is providing entitlement to a benefit under 5 U.S.C. 8341A(b).
- (7) In the proposed new 5 U.S.C. 8339(j)(4)(B), as added by section 109(c)(1) of the bill, "or" should be changed to "and".
- (8) In section 109(e)(3)(A) of the bill, "or at" should be inserted after "prior to". This provision concerns a joint election between an employee and the employee's current spouse to waive or reduce a survivor annuity

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for the current spouse in order to provide a survivor annuity for a former spouse, and stipulates that such an election may be made prior to the time of retirement. However, this provision refers specifically to an election under 5 U.S.C. 8339(j)(1)(E), which in turn provides only for an election to be made at the time of retirement. It is inconsistent to require under section 109(e)(3)(A) of the bill that such an election must be made before the time of retirement.

(9) Section 109(e)(4) of the bill refers erroneously to 5 U.S.C. 8339(b)(2). This should be changed to 5 U.S.C. 8339(j)(2).

(10) Paragraphs (2) and (3) of section 109(f) of the bill, concerning the effective date, are largely redundant and could be merged into one paragraph.

Finally, we wish also to comment briefly on section 511 of S. 888, which would amend chapter 55 of title 5, United States Code, to authorize garnishment of Federal employees' pay for child and spousal support. This provision seems to be a restatement of authorities currently found in 42 U.S.C. 659, 661, and 662. We question the need to repeat the same provisions in title 5.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

— — —
Donald J. Devine
Director

II

98TH CONGRESS
1ST SESSION

S. 888

Entitled the "Economic Equity Act".

IN THE SENATE OF THE UNITED STATES

MARCH 23 (legislative day, MARCH 21), 1983

Mr. DURENBERGER (for himself, Mr. PACKWOOD, Mr. HATFIELD, Mr. HART, Mrs. KASSEBAUM, Mr. BAUCUS, Mr. BURDICK, Mr. INOUE, Mr. BOSCHWITZ, Mr. KENNEDY, Mr. COHEN, Mr. WALLOP, Mr. HEINZ, Mr. RIEGLE, Mr. MITCHELL, Mr. MELCHER, Mr. TSONGAS, Mr. DIXON, Mr. LEAHY, Mr. MATSUNAGA, Mr. MATHIAS, Mr. PRESSLER, Mr. COCHRAN, and Mr. GLENN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

Entitled the "Economic Equity Act".

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE AND TABLE OF CONTENTS

4 SECTION 1. This Act may be cited as the "Economic
5 Equity Act of 1983".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—TAX AND RETIREMENT MATTERS

Sec. 101. Compensation of spouse may be taken into account in determining income tax deduction for retirement savings.

Sec. 102. Alimony treated as compensation in determining income tax deduction for retirement savings.

- Sec. 103. Joint and survivor annuity requirements for retirement plans.
- Sec. 104. Prohibition against assignment of benefits under retirement plans not to apply in divorce, etc., proceedings.
- Sec. 105. Exemption from ERISA preemption for judgments, decrees, and orders pursuant to State domestic relations law.
- Sec. 106. Lowering of age limitation for minimum participation standards for retirement plans.
- Sec. 107. Counting years of service after age twenty-one for resting under retirement plans.
- Sec. 108. Continuation of benefit accruals under retirement plans while the employee is on approved maternity or paternity leave.
- Sec. 109. Reforms relating to spousal benefits under civil service retirement.
- Sec. 110. Displaced homemakers established as a targeted group for purposes of computing the income tax credit for employment of certain new employees.
- Sec. 111. Zero bracket amount for heads of households in determining income tax increased to amount for joint returns, et cetera.

TITLE II—DEPENDENT CARE PROGRAM

- Sec. 201. Increase in the tax credit for expenses for household and dependent care services necessary for gainful employment.
- Sec. 202. Certain organizations providing dependent care included within the definition of tax-exempt organizations.
- Sec. 203. Tax credit for household and dependent care services necessary for gainful employment made refundable.
- Sec. 204. Child care information and referral services.

TITLE III—NONDISCRIMINATION IN INSURANCE

- Sec. 301. Short title of title.
- Sec. 302. Findings and policy.
- Sec. 303. Definitions.
- Sec. 304. Unlawful discriminatory actions.
- Sec. 305. State or local enforcement prior to judicial enforcement under this title.
- Sec. 306. Civil action by or on behalf of aggrieved person.
- Sec. 307. Civil action by the Attorney General involving issues of general public importance.
- Sec. 308. Jurisdiction.
- Sec. 309. Judicial relief.
- Sec. 310. Inapplicability.
- Sec. 311. Effective date of title.

TITLE IV—REGULATORY REFORM AND GENDER NEUTRALITY

- Sec. 401. Revision of regulations, etc., and legislative recommendations.
- Sec. 402. Rule of statutory construction relating to gender.

TITLE V—CHILD SUPPORT ENFORCEMENT

PART A—PROGRAM IMPROVEMENTS

- Sec. 501. Purpose of the program.
- Sec. 502. Collection of past-due support from Federal tax refunds.
- Sec. 503. Child support clearinghouse.
- Sec. 504. Strengthening of State child support enforcement procedures.
- Sec. 505. Exceptions to discharge in bankruptcy.

1 “(B) APPROVED MATERNITY OR PATERNITY
2 LEAVE DEFINED.—For purposes of subparagraph
3 (A), the term ‘approved maternity or paternity
4 leave’ means any period (not to exceed 52 weeks)
5 during which the employee is absent from work
6 if—

7 “(i) such absence is by reason of preg-
8 nancy or the birth of a child of the employee
9 or for purposes of caring for a child of the
10 employee, and

11 “(ii) such absence is approved by the
12 employer.

13 “(C) SERVICE REQUIREMENT AFTER THE
14 LEAVE.—Subparagraph (A) shall not apply unless
15 the employee continues to perform service for the
16 employer after the end of the approved maternity
17 or paternity leave or offers to do so but is not
18 reemployed by the employer.”.

19 (c) The amendments made by this section shall apply to
20 plan years beginning more than one year after the date of the
21 enactment of this Act.

22 REFORMS RELATING TO SPOUSAL BENEFITS UNDER CIVIL
23 SERVICE RETIREMENT

24 SEC. 109. (a) DEFINITIONS.—(1) Section 8331 of title
25 5, United States Code, relating to definitions for purposes of

1 civil service retirement, is amended by adding at the end
2 thereof the following new paragraphs:

3 “(23) ‘court’ means any court of any State or of
4 the District of Columbia;

5 “(24) ‘court order’ means any court decree of di-
6 vorce or annulment, or any court order or court ap-
7 proved property settlement agreement incident to any
8 court decree of divorce or annulment which orders that
9 a portion of the annuity of an employee or Member, or
10 survivor benefit based on the service of such employee
11 or Member, be paid to that spouse by such employee or
12 Member, the Director of the Office of Personnel Man-
13 agement, or the Government;

14 “(25) ‘former spouse’ means a former wife or hus-
15 band of an individual who was married to such individ-
16 ual for not less than 10 years during periods of service
17 by that individual which are creditable under section
18 8332 of this title;

19 “(26) ‘pro rata share’, in the case of any former
20 spouse of any individual, means a percentage which is
21 equal to the percentage that (A) the number of years
22 during which the former spouse was married to the in-
23 dividual during the creditable service of that individual
24 is of (B) the total number of years of such creditable
25 service; and

1 “(27) ‘spousal agreement’ means any agreement
2 between an individual and that individual’s spouse or
3 former spouse which is in writing and acknowledged
4 before a notary public.”.

5 (2) Such section 8331 of title 5, United States Code, is
6 further amended—

7 (A) by striking out “and” at the end of paragraph
8 (21), and

9 (B) by striking out the period at the end of para-
10 graph (22) and inserting in lieu thereof a semicolon.

11 (b) ANNUITIES AND SURVIVOR ANNUITIES FOR
12 FORMER SPOUSES.—(1) Subchapter III of chapter 83 of
13 title 5, United States Code, relating to civil service retire-
14 ment, is amended by inserting after section 8341 the follow-
15 ing new section:

16 “§ 8341A. Former spouse annuities

17 “(a)(1) Unless otherwise expressly provided by any
18 spousal agreement or court order under section 8345(j) of this
19 title, a former spouse of an employee or Member retired
20 under this subchapter is entitled to an annuity—

21 “(A) if married to the employee or Member
22 throughout that employee’s or Member’s period of
23 creditable service, equal to 50 percent of the annuity
24 (determined without regard to the reduction under

1 paragraph (5) of this subsection) to which such employ-
2 ee or Member is entitled, or

3 “(B) if not married to the employee or Member
4 throughout the period of creditable service, equal to
5 that former spouse’s pro rata share of 50 percent of
6 such annuity.

7 “(2) A former spouse shall not be qualified for an annu-
8 ity under this subsection if before the commencement of that
9 annuity the former spouse remarries before becoming 60
10 years of age.

11 “(3) The annuity of a former spouse under this subsec-
12 tion commences on the later of the day the employee or
13 Member upon whose service the annuity is based becomes
14 entitled to an annuity under this subchapter or the first day of
15 the month in which the divorce or annulment involved be-
16 comes final. The annuity of such former spouse and the right
17 thereto terminate on—

18 “(A) the last day of the month before the former
19 spouse dies or remarries before 60 years of age; or

20 “(B) the date the annuity of the employee or
21 Member terminates (except in the case of an annuity
22 subject to paragraph (5)(B)).

23 “(4) No spousal agreement or court order under section
24 8345(j) of this title involving any employee or Member may
25 provide for an annuity or any combination of annuities under

1 this subsection which exceeds the annuity of the employee or
2 Member, nor may any such court order relating to an annuity
3 under this subsection be given effect if it is issued more than
4 12 months after the date the divorce or annulment involved
5 becomes final.

6 “(5)(A) The annuity payable to any employee or
7 Member shall be reduced by the amount of an annuity under
8 this subsection paid to any former spouse based upon the
9 service of that employee or Member. Such reduction shall be
10 disregarded in calculating the survivor annuity for any
11 spouse, former spouse, or other survivor under this sub-
12 chapter, and in calculating any reduction in the annuity of
13 the employee or Member to provide survivor benefits under
14 subsection (b) or section 8341(b)(1) of this title.

15 “(B) If any disability annuitant whose annuity is re-
16 duced under subparagraph (A) becomes reinstated or reap-
17 pointed in the civil service, the pay of that annuitant shall be
18 reduced by the same amount as the annuity would have been
19 reduced if it had continued. Amounts equal to the reductions
20 under this subparagraph shall be deposited in the Treasury of
21 the United States to the credit of the Fund.

22 “(6) Notwithstanding paragraph (3), in the case of any
23 former spouse of a disability annuitant—

24 “(A) the annuity of that former spouse shall com-
25 mence on the date the employee or Member would

1 qualify on the basis of the employee's or Member's
2 creditable service for an annuity under this subchapter
3 (other than a disability annuity) or the date the disabili-
4 ty annuity begins, whichever is later, and

5 “(B) the amount of the annuity of the former
6 spouse shall be calculated on the basis of the annuity
7 for which the employee or Member would otherwise so
8 qualify.

9 “(b)(1) Subject to any election under section 8339(j) of
10 this title and unless otherwise expressly provided by any
11 spousal agreement or court order under section 8345(j) of this
12 title, if a former employee or Member who is entitled to re-
13 ceive an annuity is survived by a former spouse, the former
14 spouse shall be entitled to a survivor annuity—

15 “(A) if married to the employee or Member
16 throughout the creditable service of the employee or
17 Member, equal to 55 percent of the full amount of the
18 employee's or Member's annuity, as computed under
19 section 8339 of this title, or

20 “(B) if not married to the employee or Member
21 throughout such creditable service, equal to that former
22 spouse's pro rata share of 55 percent of the full
23 amount of such annuity.

24 “(2) A former spouse shall not be qualified for an annu-
25 ity under this subsection if before the commencement of that

1 annuity the former spouse remarries before becoming 60
2 years of age.

3 “(3) An annuity payable from the Fund to a surviving
4 former spouse under this subsection shall commence on the
5 day after the annuitant dies and shall terminate on the last
6 day of the month before the former spouse’s death or remar-
7 riage before attaining age 60. If such a survivor annuity is
8 terminated because of remarriage, it shall be restored at the
9 same rate commencing on the date such remarriage is termi-
10 nated if any lump sum paid upon termination of the annuity is
11 returned to the Fund.

12 “(4)(A) The maximum survivor annuity or combination
13 of survivor annuities under this section (and section 8341(b))
14 with respect to any employee or Member may not exceed 55
15 percent of the full amount of the employee’s or Member’s
16 annuity, as calculated under section 8339 of this title.

17 “(B) Once a survivor annuity has been provided for
18 under this subsection for any former spouse, a survivor annu-
19 ity may thereafter be provided for under this subsection (or
20 section 8341(b)) with respect to an employee or Member only
21 for that portion (if any) of the maximum available which is
22 not committed for survivor benefits for any former spouse
23 whose prospective right to such annuity has not terminated
24 by reason of death or remarriage.

1 “(C) After the death of an employee or Member, a court
2 order under section 8345(j) of this title may not adjust the
3 amount of the annuity of any former spouse under this sub-
4 section.

5 “(5)(A) For each full month after a former spouse of an
6 employee or Member dies or remarries before attaining age
7 60, the annuity of the employee or Member, if reduced to
8 provide a survivor annuity for that former spouse, shall be
9 recomputed and paid as if the annuity had not been so re-
10 duced, unless an election is in effect under subparagraph (B).

11 “(B) Subject to paragraph (4)(B), the employee or
12 Member may elect in writing within one year after receipt of
13 notice of the death or remarriage of the former spouse to
14 continue the reduction in order to provide a higher survivor
15 annuity under section 8341(b) of this title for any spouse of
16 the employee or Member.

17 “(c)(1) In the case of any employee or Member provid-
18 ing a survivor annuity benefit under subsection (b) for a
19 former spouse—

20 “(A) such employee or Member may elect, or

21 “(B) a spousal agreement or court order under
22 section 8345(j) of this title may provide for,

23 an additional survivor annuity under this subsection for any
24 other former spouse or spouse surviving the employee or
25 Member, if the employee or Member satisfactorily passes a

1 physical examination as prescribed by the Office of Personnel
2 Management.

3 “(2) Neither the total amount of survivor annuity or an-
4 nnuities under this subsection with respect to any employee or
5 Member, nor the survivor annuity or annuities for any one
6 surviving spouse or former spouse of such employee or
7 Member under this section and section 8341 of this title, shall
8 exceed 55 percent of the full amount of the employee's or
9 Member's annuity, as computed under section 8339 of this
10 title.

11 “(3)(A) In accordance with regulations which the Office
12 shall prescribe, the employee or Member involved may pro-
13 vide for any annuity under this subsection—

14 “(i) by a reduction in the annuity or an allotment
15 from the pay of the employee or Member,

16 “(ii) by a lump sum payment or installment pay-
17 ments to the Fund, or

18 “(iii) by any combination thereof.

19 “(B) The present value of the total amount to accrue to
20 the Fund under subparagraph (A) to provide any annuity
21 under this subsection shall be actuarially equivalent in value
22 to such annuity, as calculated upon such tables of mortality
23 as may from time to time be prescribed for this purpose by
24 the Office.

1 “(C) If a former spouse predeceases the employee or
2 Member or remarries before attaining age 60 (or, in the case
3 of a spouse, the spouse does not qualify as a former spouse
4 upon dissolution of the marriage)—

5 “(i) if an annuity reduction or salary allotment
6 under subparagraph (A) is in effect for that spouse or
7 former spouse, the annuity shall be recomputed and
8 paid as if it had not been reduced or the salary allot-
9 ment terminated, as the case may be, and

10 “(ii) any amount accruing to the Fund under sub-
11 paragraph (A) shall be refunded, but only to the extent
12 that such amount may have exceeded the actuarial cost
13 of providing benefits under this subsection for the
14 period such benefits were provided, as determined
15 under regulations prescribed by the Office.

16 “(D) Under regulations prescribed by the Office, an an-
17 nuity shall be recomputed (or salary allotment terminated or
18 adjusted), and a refund provided (if appropriate), in a manner
19 comparable to that provided under subparagraph (C), in order
20 to reflect a termination or reduction of future benefits under
21 this subsection for a spouse in the event a former spouse of
22 the employee or Member dies or remarries before attaining
23 age 60 and an increased annuity is provided for that spouse
24 in accordance with this subchapter.

1 “(4) An annuity payable under this subsection to a
2 spouse or former spouse shall commence on the day after the
3 employee or Member dies and shall terminate on the last day
4 of the month before the former spouse’s death or remarriage
5 before attaining age 60.

6 “(5) Section 8340 of this title shall not apply to any
7 annuity under this subsection, unless authorized under regu-
8 lations prescribed by the Office.

9 “(d)(1) Section 8345(f) of this title shall not apply—

10 “(A) to any annuity payable under subsection (a)
11 or (b) to any former spouse if the amount of that annu-
12 ity varies by reason of a spousal agreement or court
13 order under section 8345(j), or an election under sec-
14 tion 8339(j), from the amount which would be calculat-
15 ed under subsection (a)(1) or (b)(1), as the case may be,
16 in the absence of such spousal agreement, court order,
17 or election; and

18 “(B) to any annuity payable under subsection (c).

19 “(2) A former spouse is not entitled to an annuity under
20 this subchapter based upon the service of an employee or
21 Member unless the former spouse elects to receive it instead
22 of any other annuity to which the former spouse may be enti-
23 tled under this subchapter or any retirement system for Gov-
24 ernment employees on the basis of a marriage to someone
25 other than the employee or Member.”.

1 (2) Section 8332 of title 5, United States Code, relating
2 to creditable service, is amended by adding at the end thereof
3 the following new subsection:

4 “(n)(1) Service of an employee or Member shall be con-
5 sidered creditable service for purposes of applying provisions
6 of this subchapter relating to former spouses if such service
7 would be creditable—

8 “(A) under subsection (k) (1) or (2) but for the fact
9 an election was not made under subsection (k)(1) or a
10 special contribution was not made under subsection
11 (k)(2), and

12 “(B) under section 8334(d) but for the fact that a
13 refund of contributions has not been repaid unless the
14 former spouse received under this subchapter a portion
15 of the lump sum (or a spousal agreement or court order
16 provided otherwise).

17 “(2) A former spouse shall not be considered as married
18 to an employee or Member for periods assumed to be credit-
19 able service under section 8341(d)(2) of this title.”.

20 (3)(A) Section 8341(b) of title 5, United States Code,
21 relating to survivor spouse annuities, is amended by adding at
22 the end thereof the following new paragraph:

23 “(4) Notwithstanding the preceding paragraphs in this
24 subsection and subsection (d), the amount of the annuity cal-
25 culated under this subsection for a surviving spouse in any

1 case in which there is also a surviving former spouse who
2 qualifies for an annuity under section 8341A(b) with respect
3 to the same employee or Member may not exceed 55 percent
4 of the portion (if any) of the base for survivor benefits which
5 remains available under section 8341A(b)(4)(B).".

6 (B) Section 8341(d) of title 5, United States Code, relat-
7 ing to survivor spouse annuities in the case of death in serv-
8 ice, is amended by adding at the end thereof the following
9 new sentence: "Any surviving former spouse shall be entitled
10 to an annuity under section 8341A(b) as if the employee or
11 Member died after being entitled to an annuity under this
12 subchapter.".

13 (4)(A) Section 8342(a) of title 5, United States Code,
14 relating to lump-sum benefits, is amended by striking out "is
15 entitled" and inserting in lieu thereof "(and any former
16 spouse of such employee or Member, in accordance with sub-
17 section (j)) are entitled".

18 (B) Section 8342 of title 5, United States Code, is
19 amended by adding at the end thereof the following:

20 "(j) Unless otherwise expressly provided by any spousal
21 agreement or court order under section 8345(j) of this title,
22 the amount of an employee's or Member's lump-sum credit
23 payable to a former spouse shall be—

24 "(1) if the former spouse was married to the em-
25 ployee or Member throughout the period of creditable

1 service, 50 percent of the lump-sum credit to which
2 such employee or Member would be entitled in the ab-
3 sence of this subsection, or

4 “(2) if such former spouse was not married to the
5 employee or Member throughout the period of his cred-
6 itable service, an amount equal to such former spouse’s
7 pro rata share of 50 percent of such lump-sum credit.

8 The lump-sum credit of the employee or Member shall be
9 reduced by the amount of the lump-sum credit payable to the
10 former spouse.”.

11 (5) Section 8344 of title 5, United States Code, relating
12 to annuities and pay on reemployment, is amended by re-
13 designating subsection (e) as subsection (f) and by inserting
14 after subsection (d) the following new subsection:

15 “(e) The Office shall prescribe regulations to provide for
16 the application of this section in any case in which an annu-
17 itant has a former spouse entitled to an annuity under section
18 8341A of this title.”.

19 (6) The table of sections for chapter 83 of title 5, United
20 States Code, is amended by inserting after the item relating
21 to section 8341 the following new item:

“8341A. Former spouse annuities.”.

22 (c) JOINT EMPLOYEE-SPOUSE ELECTIONS.—(1) Sec-
23 tion 8339(j) of title 5, United States Code, relating to elec-
24 tion of survivor annuities, is amended to read as follows:

1 “(j)(1)(A) Except to the extent provided otherwise under
2 a written election under subparagraph (B) or (C), if at the
3 time of retirement an employee or Member is married (or has
4 a former spouse who has not remarried before attaining age
5 60), the employee or Member shall receive a reduced annuity
6 and provide a survivor annuity under section 8341(b) for the
7 employee's or Member's spouse or a survivor annuity under
8 section 8341A(b) for the former spouse, or a combination of
9 such annuities, as the case may be.

10 “(B) At the time of retirement, a married employee or
11 Member and the employee's or Member's spouse may jointly
12 elect to waive a survivor annuity for that spouse under sec-
13 tion 8341(b) (or under section 8341A(b) if the spouse later
14 qualifies as a former spouse under section 8331(25)), or to
15 reduce such a survivor annuity by designating a portion of
16 the annuity of the employee or Member as the base for the
17 survivor benefit. Any such election shall be in writing and
18 shall be acknowledged before a notary public. In the event
19 the marriage is dissolved following an election for such a re-
20 duced annuity and the spouse qualifies as a former spouse,
21 the base used in calculating any annuity of the former spouse
22 under section 8341A(b) may not exceed the portion of the
23 employee's or Member's annuity designated under this sub-
24 paragraph.

1 “(C) If an employee or Member has a former spouse, the
2 employee or Member and such former spouse may jointly
3 elect by spousal agreement under section 8345(j) to waive a
4 survivor annuity under section 8341A(b) for that former
5 spouse if the election is made (i) before the end of the 12-
6 month period after the divorce or annulment involving that
7 former spouse becomes final or (ii) at the time of retirement,
8 whichever occurs first.

9 “(D) The Office of Personnel Management may pre-
10 scribe regulations under which an employee or Member may
11 make an election under subparagraph (B) or (C) without the
12 employee's or Member's spouse or former spouse if the em-
13 ployee or Member establishes to the satisfaction of the Office
14 that the employee or Member does not know, and has taken
15 all reasonable steps to determine, the whereabouts of the
16 spouse or former spouse.

17 “(2) The annuity of an employee or Member providing a
18 survivor benefit under section 8341(b) (or section 8341A(b)),
19 excluding any portion of the annuity not designated or com-
20 mitted as a base for any survivor annuity, shall be reduced by
21 $2\frac{1}{2}$ percent of the first \$3,600 plus 10 percent of any
22 amount over \$3,600. The reduction under this paragraph
23 shall be calculated before any reduction under section
24 8341A(a)(5).

1 “(3) An annuity which is reduced under this subsection
2 or any similar prior provision of law to provide a survivor
3 benefit for a spouse shall, if the marriage of the employee or
4 Member is dissolved, be recomputed and paid for each month
5 during which the employee or Member is not married (or is
6 remarried if there is no election in effect under the following
7 sentence) as if the annuity had not been reduced, subject to
8 any reduction required to provide a survivor benefit under
9 section 8341A (b) or (c). Upon remarriage the retired em-
10 ployee or Member may irrevocably elect, by means of a
11 signed writing received by the Office within one year after
12 such remarriage, to receive during such marriage a reduction
13 in annuity for the purpose of allowing an annuity for the new
14 spouse of the annuitant in the event such spouse survives the
15 annuitant. Such reduction shall be equal to the reduction in
16 effect immediately before the dissolution of the previous mar-
17 riage (unless such reduction is adjusted under section
18 §341A(b)(5)), and shall be effective the first day of the first
19 month beginning one year after the date of remarriage.

20 “(4) The Office shall, on an annual basis—

21 “(A) inform each employee and Member of the
22 rights of election under this subsection; and

23 “(B) to the maximum extent practicable, inform
24 spouses or former spouses of employees and Members
25 of their rights under this subchapter.”.

1 (2) Section 8339(k)(1) of title 5, United States Code,
2 relating to annuities for individuals having insurable interests,
3 is amended by inserting after "an unmarried employee or
4 Member" the following: "who does not have a former spouse
5 for whose benefit a reduction is made in the employee's or
6 Member's annuity and".

7 (3) Section 8341(b)(1) of title 5, United States Code, is
8 amended by striking out "unless the employee or Member
9 has notified the Office" and all that follows and inserting in
10 lieu thereof the following: "unless an election has been made
11 under section 8339(j)(1) or, in the case of remarriage, an
12 election has not been made under section 8339(j)(3).".

13 (4) Section 8344(a) of title 5, United States Code, relat-
14 ing to annuities and pay on reemployment, is amended by
15 striking out "unless, at the time of claiming the increase pay-
16 able under subparagraph (A), the annuitant notifies the Office
17 of Personnel Management in writing that he does not desire
18 the survivor annuity to be increased" and inserting in lieu
19 thereof "unless the annuitant and the annuitant's spouse
20 jointly elect to the contrary at the time in a written election
21 acknowledged before a notary public".

22 (d) SPOUSAL AGREEMENTS AND COURT ORDERS.—
23 Section 8345(j) of title 5, United States Code, relating to
24 court orders concerning the dissolution of marriage, is
25 amended to read as follows:

1 “(j)(1)(A) In the case of any employee or Member who
2 has a former spouse who is covered by a court order or who
3 is a party to a spousal agreement—

4 “(i) any right of the former spouse to any annuity
5 under section 8341A(a) in connection with any retire-
6 ment or disability annuity of the employee or Member,
7 and the amount of any such annuity;

8 “(ii) any right of the former spouse to a survivor
9 annuity under section 8341A (b) or (c), and the amount
10 of any such annuity; and

11 “(iii) any right of the former spouse to any pay-
12 ment of a lump-sum credit under section 8342;

13 shall be determined in accordance with that spousal agree-
14 ment or court order, if and to the extent expressly provided
15 for in the terms of that spousal agreement or court order.

16 “(B) This paragraph shall not apply in the case of any
17 spousal agreement or court order which, as determined by
18 the Office of Personnel Management, is inconsistent with the
19 requirements of this subchapter.

20 “(2) Except with respect to obligations between employ-
21 ees or Members and former spouses, payments under this
22 subchapter which would otherwise be made to an employee
23 or Member based upon the employee's or Member's service
24 shall be paid (in whole or in part) by the Office to another
25 individual to the extent expressly provided for in the terms of

1 any order or any court decree of legal separation, or the
2 terms of any court order or court-approved property settle-
3 ment agreement incident to any court decree of legal separa-
4 tion.

5 “(3) Paragraphs (1) and (2) shall apply only to payments
6 made under this subchapter for periods beginning after the
7 date of receipt by the Office of written notice of such decree,
8 order, or agreement, and such additional information and
9 such documentation as the Office may require.

10 “(4) Any payment under this subsection to an individual
11 bars recovery by any other individual.

12 “(5) The 10-year requirement of section 8331(25), or
13 any other provision of this subchapter, shall not be construed
14 to affect the rights any spouse or individual formerly married
15 to an employee or Member may have, under any law or rule
16 of law of any State or the District of Columbia, with respect
17 to an annuity of an employee or Member under this
18 subchapter.”.

19 (e) SURVIVOR BENEFITS IN THE CASE OF DIVORCES
20 PRIOR TO EFFECTIVE DATE.—(1) Any current or former
21 employee or Member in the Civil Service Retirement and
22 Disability System who on the effective date of this section,
23 has a former spouse shall receive a reduced annuity and pro-
24 vide a survivor annuity for such former spouse under section
25 8341A(b) of title 5, United States Code, if—

1 (A) the employee or Member so elects by means
2 of a spousal agreement, or

3 (B) a court order so provides.

4 (2)(A) If the employee or Member has not retired under
5 such system on or before the effective date of this section, an
6 election under paragraph (1)(A) may be made, or a court
7 order under paragraph (1)(B) may be issued, at any time
8 before retirement.

9 (B) If the employee or Member has retired under such
10 system on or before the effective date of this section, an elec-
11 tion under paragraph (1)(A) may be made, or a court order
12 under paragraph (1)(B) may be issued, within such period
13 after the effective date as the Office of Personnel Manage-
14 ment may prescribe.

15 (C) In any case in which an employee or Member is
16 married and has been married for more than one year, an
17 election under paragraph (1)(A) may only be made with the
18 written concurrence of the spouse of the employee or
19 Member.

20 (D) For purposes of applying subchapter III of chapter
21 83 of title 5, United States Code, any such election or court
22 order shall be treated the same as if it were a spousal agree-
23 ment or court order under section 8345(j) of title 5, United
24 States Code.

1 (3)(A) An election under paragraph (1)(A) may provide
2 for a survivor benefit based on all or any portion of that part
3 of the annuity of the employee or Member which is not desig-
4 nated or committed as a base for survivor benefits for a
5 spouse or any other former spouse of the employee or
6 Member. The employee or Member and the employee's or
7 Member's spouse may make an election under section
8 8339(j)(1)(B) of title 5, United States Code, prior to the time
9 of retirement for the purpose of allowing survivor benefits to
10 be provided under this subsection.

11 (B) A court order under paragraph (1)(B) may provide
12 for an annuity for a former spouse which does not exceed that
13 former spouse's pro rata share of 55 per centum of the full
14 amount of the annuity of employee or Member.

15 (4) The amount of the reduction in the employee's or
16 Member's annuity shall be determined in accordance with
17 section 8339(b)(2) of title 5, United States Code. Such reduc-
18 tion shall be effective as of—

19 (A) the commencing date of the employee's or
20 Member's annuity, in the case of an election under
21 paragraph (2)(A), or

22 (B) the effective date of this section, in the case of
23 an election under paragraph (2)(B).

1 (5) In the case of an employee or Member who died
2 before the effective date of this section after becoming enti-
3 tled to an annuity and who—

4 (A) at the time the employee or Member became
5 entitled to an annuity was married and did not elect
6 not to provide for a survivor annuity for any surviving
7 spouse under section 8339(j)(1) of title 5, United States
8 Code;

9 (B) subsequently was divorced from the spouse to
10 whom the employee or Member was married at the
11 time of retirement;

12 (C) died and was not married at the time of death
13 (or, if then married, was not married to an individual
14 entitled to an annuity under section 8341(b) of title 5,
15 United States Code),

16 the individual to whom the employee or Member was married
17 at the time the employee or Member retired shall be entitled
18 to an annuity under section 8341 of title 5, United States
19 Code, as if married to the Member at the time of death if the
20 individual is qualified as a former spouse.

21 (6) For purposes of this subsection, the terms "former
22 spouse", "employee", "Member", "court order", and "spou-
23 sal agreement" have the same meanings as when used in
24 subchapter III of chapter 83 of title 5, United States Code.

1 (f) EFFECTIVE DATE.—(1) The provisions of this sec-
2 tion shall take effect beginning on the one hundred and twen-
3 tieth day after the date of the enactment of this Act.

4 (2) The preceding subsections of this section regarding
5 the rights of former spouses to any annuity under section
6 8341A(a) of title 5, United States Code, shall apply in the
7 case of any individual who after the effective date of this
8 section becomes a former spouse of a current or former em-
9 ployee or member in the Civil Service Retirement and Dis-
10 ability System.

11 (3) Except to the extent provided in subsection (e), the
12 provisions of this section regarding the rights of former
13 spouses to receive survivor annuities under subchapter III of
14 chapter 83 of such title 5 shall apply in the case of any indi-
15 vidual who after the effective date of this section becomes a
16 former spouse of a current or former employee or Member in
17 the Civil Service Retirement and Disability System.

18 DISPLACED HOMEMAKERS ESTABLISHED AS A TARGETED
19 GROUP FOR PURPOSES OF COMPUTING THE TAX
20 CREDIT FOR EMPLOYMENT OF CERTAIN NEW EM-
21 PLOYEES

22 SEC. 110. (a) Paragraph (1) of section 51(d) of the In-
23 ternal Revenue Code of 1954 (relating to members of target-
24 ed groups) is amended by adding at the end thereof the fol-
25 lowing new subparagraph:

1 “(K) a displaced homemaker.”.

2 (b) Section 51(d) of such Code (relating to members of
3 targeted groups) is amended by redesignating paragraphs
4 (13), (14), (15), and (16) as paragraphs (14), (15), (16), and
5 (17), respectively, and by adding after paragraph (12) the fol-
6 lowing new paragraph:

7 “(13) DISPLACED HOMEMAKER.—The term ‘dis-
8 placed homemaker’ means an individual who—

9 “(A) has not worked in the labor force for a
10 substantial number of years but has, during those
11 years, worked in the home providing unpaid serv-
12 ices for family members,

13 “(B)(i) has been dependent on public assist-
14 ance or on the income of another family member
15 but is no longer supported by that income, or (ii)
16 is receiving public assistance on account of de-
17 pendent children in the home, and

18 “(C) is a member of an economically disad-
19 vantaged family and is experiencing difficulty in
20 obtaining or upgrading employment.”.

21 (c)(1) Paragraph (1) of section 51(d) of such Code is
22 amended—

23 (A) by striking out “or” at the end of subpara-
24 graph (I), and

1 (B) by striking out the period at the end of sub-
 2 paragraph (J) and inserting in lieu thereof “, or”.

3 (2) Subparagraph (A)(ii) of paragraph 12 of such section
 4 51(d) is amended by striking out “paragraph (14)” and insert-
 5 ing in lieu thereof “paragraph (15)”.

6 (d) The amendments made by subsections (a), (b), and (c)
 7 shall apply to amounts paid or incurred after the date of en-
 8 actment of this Act to individuals who have begun to work
 9 for the employer after such date.

10 ZERO BRACKET AMOUNT FOR HEADS OF HOUSEHOLDS IN-
 11 CREASED TO AMOUNT FOR JOINT RETURNS, ET
 12 CETERA

13 SEC. 111. (a) Paragraph (3) of subsection (b) of section
 14 1 of the Internal Revenue Code of 1954 (relating to imposi-
 15 tion of tax on income of heads of households after 1983) is
 16 amended to read as follows:

17 “(3) FOR TAXABLE YEARS BEGINNING AFTER
 18 1983.—

“If taxable income is:	The tax is:
Over \$3,400	No tax.
Over \$3,400 but not over \$5,500.....	11% of the excess over \$3,400.
Over \$5,500 but not over \$7,600.....	\$231, plus 12% of the excess over \$5,500.
Over \$7,600 but not over \$9,800.....	\$483, plus 14% of the excess over \$7,600.
Over \$9,800 but not over \$12,900...	\$791, plus 17% of the excess over \$9,800.
Over \$12,900 but not over \$16,100.	\$1,318, plus 18% of the excess over \$12,900.
Over \$16,100 but not over \$19,300.	\$1,894, plus 20% of the excess over \$16,100.
Over \$19,300 but not over \$24,600.	\$2,534, plus 24% of the excess over \$19,300.
Over \$24,600 but not over \$29,900.	\$3,806, plus 28% of the excess over \$24,600.

"If taxable income is:**The tax is:**

Over \$29,900 but not over \$35,200.	\$5,290, plus 32% of the excess over \$29,900.
Over \$35,200 but not over \$45,800.	\$6,986, plus 35% of the excess over \$35,200.
Over \$45,800 but not over \$61,700.	\$10,696, plus 42% of the excess over \$45,800.
Over \$61,700 but not over \$82,900.	\$17,374, plus 45% of the excess over \$61,700.
Over \$82,900 but not over \$109,400.	\$26,914, plus 48% of the excess over \$82,900.
Over \$109,400.....	\$39,634, plus 50% of the excess over \$109,400."

1 (b)(1) Subsection (e) of section 104 of the Economic Re-
2 covery Tax Act of 1981 is amended to read as follows:

3 “(e) EFFECTIVE DATES.—

4 “(1) SUBSECTION (a).—The amendment made by
5 subsection (a) shall apply to taxable years beginning
6 after December 31, 1984.

7 “(2) SUBSECTIONS (b), (c), AND (d).—The amend-
8 ments made by subsections (b), (c), and (d) shall apply
9 to taxable years beginning after December 31, 1983.”.

10 (2)(A) Clause (i) of section 6012(a)(1)(A) of the Internal
11 Revenue Code of 1954 (relating to persons required to make
12 returns of income) is amended by inserting “is not a head of a
13 household (as defined in section 2(b)),” after “section 2(a)),”.

14 (B) Clause (ii) of such section is amended by inserting
15 “or who is a head of a household (as so defined)” after “who
16 is a surviving spouse (as so defined)”.

17 (c) The amendments made by this section shall apply to
18 taxable years beginning after December 31, 1983.

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REMARKS

We have 2 cys - 7 Sept
deadline

1-2/3: cc sent to D/OP
with response due to you
by COB 6 Sept. 11 SEP 1983 done

4- Answered by OP by memo. Given to
LLD on 7 Sep 83.

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OPTIONAL FORM 41 (Rev. 7-76)

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